



**GENERAL SERVICES ADMINISTRATION**

**48 CFR Part 536**

**[GSAR Case 2015-G505; Docket No. GSA-GSAR 2021-0029;**

**Sequence No. 1]**

**RIN 3090-AJ65**

**General Services Administration Acquisition Regulation  
(GSAR); Architect-Engineer Selection Procedures**

**AGENCY:** Office of Acquisition Policy, General Services Administration (GSA).

**ACTION:** Final rule.

**SUMMARY:** The General Services Administration (GSA) is issuing a final rule amending the General Services Administration Acquisition Regulation (GSAR) to remove text from the GSAR regarding internal architect-engineer selection procedures and move it into the General Services Administration Acquisition Manual (GSAM).

**DATES:** Effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Mr. Liam Skinner or Mr. Bryon Boyer at 817-850-5580 or [gsarpolicy@gsa.gov](mailto:gsarpolicy@gsa.gov), for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202-501-4755. Please cite GSAR Case 2015-G505.

**SUPPLEMENTARY INFORMATION:**

## **I. Background**

As part of GSA's regulatory reform efforts, GSA identified internal agency guidance on architect/engineer selection procedures in the General Services Administration Acquisition Regulation (GSAR) that are non-regulatory. The on-going clean up of the GSAR presents the opportunity to move this text into internal agency acquisition guidance, the General Services Administration Acquisition Manual (GSAM). Thus, the Fall 2017 edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions in the Federal Register at 83 FR 1664 on January 12, 2018, notes GSA's intention to publish a final rule in the Federal Register to remove this language from the GSAR and add it to the non-regulatory GSAM.

## **II. Authority for This Rulemaking**

Title 40 of the United States Code (U.S.C.) Section 121 authorizes GSA to issue regulations, including the GSAR, to control the relationship between GSA and contractors.

## **III. Discussion and Analysis**

Federal Acquisition Regulation (FAR) 1.301(a)(2) provides an agency head the ability to issue or authorize the issuance of internal agency guidance at any organizational level (e.g., designations and delegations of authority, assignments of responsibilities, work-flow procedures, and internal reporting requirements).

Furthermore, FAR 1.301(b) states that publication for public comment is not required for issuances under FAR 1.301(a)(2).

GSA's implementation and supplementation of the FAR is issued in the GSAM, which includes the GSAR. The GSAR contains policies and procedures that have a significant effect beyond the internal operating procedures of GSA or a significant effect beyond the internal operating procedures of GSA or a significant cost or administrative impact on contractors or offerors (see FAR 1.301(b)). Relevant procedures, guidance, instruction, and information that do not meet this criteria are issued through the non-regulatory portion of the GSAM and other GSA publications.

As a part of GSA's comprehensive review of its regulatory requirements in the GSAR, internal agency guidance was identified within GSAR Part 536 that could be moved to GSA's non-regulatory acquisition policy of the GSAM. This internal guidance does not have a significant effect beyond the internal operating procedures of GSA or a significant cost or administrative impact on contractors or offerors (see FAR 1.301(b)). As a result, this action represents an administrative clean-up to remove internal agency guidance from the GSAR and move it to GSA's non-regulatory acquisition policy. Moving this language from GSAR to GSAM allows for future updates to be easier and

more efficient, allowing for the section to stay up to date with current procedures.

The amendments to GSAR part 536 are minor and reflect needed changes to have language reflect current practice.

#### **IV. Executive Orders 12866 and 13563**

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been reviewed and determined by the Office of Management and Budget (OMB) not to be a significant regulatory action and, therefore, was not subject to review under section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993.

#### **V. Congressional Review Act**

The Congressional Review Act, 5 U.S.C. 801 et seq., as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a "major rule" may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the

Comptroller General of the United States. A major rule cannot take effect until 60 days after it is published in the Federal Register.

This rule has been reviewed and determined by OMB not to be a "major rule" under 5 U.S.C. 804(2).

#### **VI. Notice for Public Comment**

The statute that applies to the publication of the GSAR is the Office of Federal Procurement Policy statute (codified at title 41 of the United States Code). Specifically, 41 U.S.C. 1707(a)(1) requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on contractors or offerors. This rule is not required to be published for public comment, because it does not have a significant effect or impose any new requirements on contractors or offers, the rule merely removes internal agency guidance from regulatory, to non-regulatory authority.

#### **VII. Regulatory Flexibility Act**

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) does not apply to this rule, because an opportunity for

public comment is not required to be given for this rule under 41 U.S.C. 1707(a)(1) (see Section VI. of this preamble). Accordingly, no regulatory flexibility analysis is required and none has been prepared.

#### **VIII. Paperwork Reduction Act**

The final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

#### **List of Subjects in 48 CFR Part 536**

Government procurement.

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Therefore, GSA amends 48 CFR part 536 as set forth below:

**PART 536-CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS**

1. The authority citation for 48 CFR part 536 continues to read as follows:

**Authority:** 40 U.S.C. 121(c).

**Subpart 536.6 [Removed and Reserved]**

2. Remove and reserve subpart 536.6, consisting of sections 536.602 and 536.602-1.

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